



The Commonwealth of Massachusetts Group Insurance Commission

P.O. Box 8747
Boston, Massachusetts 02114-8747



(617) 727-2310
Fax (617) 227-2681
TTY (617) 227-8583
www.mass.gov/gic

RE: Comments on Proposed Regulations 114.5 CMR 21.00 and 114.5 CMR 22.00

5/19/2010

To Whom It May Concern:

The following are comments and concerns of the Group Insurance Commission (GIC) regarding the regulations proposed to govern the Massachusetts All Payer Claims Database (APCD), as defined in 114.5 CMR 21.00 and 114.5 CMR 22.00. The GIC appreciates the benefits associated with an APCD, notably, increased transparency and public reporting opportunities. However, the GIC, which has a long history of medical claims aggregation and analysis, has concerns about the safety and security of such a vast database and the ability of the GIC to continue to operate its data-based programs depending entirely on extracting claims from the APCD. Of particular concern are the degree of sensitivity in a number of data elements in the restricted fields and the decision to cede sole authority to release data to the Commissioner of the Division of Health Care Finance and Policy. The GIC is mandated to secure its membership's confidential information, and researcher access to the de-identified information is governed by the GIC's Institutional Review Board (IRB) on which the Executive Director of the GIC sits, as chair. The GIC wishes to be an equal partner in decision-making about data which is central to its own mission, as well as its dissemination to others for whatever purpose.

For the entire data collection process, the GIC thinks that it would be advisable that members' data be fully de-identified, so that only scrambled versions of a member's identification should be included in the database for essential data security and member privacy.

What follows below are annotations of the posted regulations.

114.5 CMR 21.00: Health Care Claims Data Submission

21.01 (1) add to the last sentence the following : *"...and allows the GIC to continue the Clinical Provider Improvement (CPI) Initiative."*

(3) Authority?

21.02: Definitions.

- Add a definition for De-identified data
- Health Care Payer: Is the referenced Federal law

Health Care Claims Data. Should read "Information consisting of, or derived directly from *de-identified* member eligibility information"

Member Eligibility File. A file that includes *de-identified* data about a person

Public Use File. Where is the list of public use elements?

- 21.03 (1).d. Who would determine if additional information is necessary?
(2) b. Whose actuarial assumptions?
(2) c. Is it necessary to collect all of this data? Members will be fully identified.
(2) f. Who is to provide this information, and how is it integrated into claims?
(3) b. What about members who live out of state?

Appendix A.

- Member Zip Code should be limited to three digits
- Should require MS-DRG
- Layout does not specify how APCD will manage retro-active eligibility and adjusted claims. These are issues for GIC projects.
- Date of birth should be replaced with age in order not to inadvertently identify an individual by demographic information alone.
- Please include a field which would indicate which GIC tier a physician is in. This should include, NT (not tiered), ID (insufficient data), T1 (tier 1), T2 (tier 2) and T3 (tier 3).

114.5 CMR 22.00: Health Care Claims Data Release

22.02 Definitions.

Data Release Committee. Recommend giving the committee more power, like an Institutional Review Board.

Pre-developed Modules. This should also be defined.

Public Interest. Public interest is identified within the regulations and it should be defined.

Public Use Files. Patient identifiers, such as the combination of date of birth (use age instead) + gender + zip code) even though de-identified, should be carefully excluded. In addition an IRB should determine that an applicant meets data release requirements.

22.03: Procedures for Data Requests.

(1) The data release should be at the determination of the IRB not the Commissioner.

(1) b. IRB should determine the minimum necessary data elements needed.

Allow for GIC and its contractors/subcontractors to have access for CPI.

IRB should include members from GIC, Connector Authority and Division of Insurance.

(2) Should the sentence read – restricted *fields* requested.

(2) e. Who at the Division will review for privacy, what qualifications, how many reviewers?

Add (2) f. Sign an agreement to the security restrictions for data release; GIC's IRB agreement could serve as a model.

(3) Add: Need to require a security statement from the receiver of a file set that documents all aspects of each applicant's security and privacy standards.

(3) c. 4. Add; that patient privacy *and security* will be *adequately* protected.

(3) d. add. "*Minimum necessary restricted data elements needed, as consistent with federal and state privacy laws*".

22.04: Data Disclosure Restrictions

(1) Use the GIC IRB agreement. (Should we include our document?)

(2) b. Must be de-identified.

22.05 Other Provisions

22.06 Sanctions

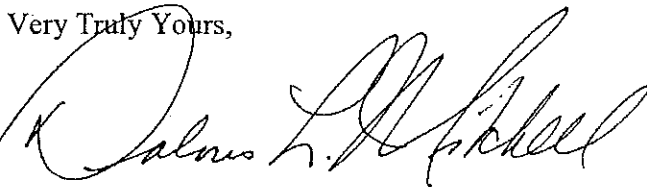
(1) Use the GICs penalties (performance standards and guarantees) for late data submissions

Appendix A Public Data Release Elements.

- Member Zip Code should be limited to three digits
- Should require MS-DRG

Thank you for considering these comments and edits to 114.5 CMR 21.00 and 114.5 CMR 22.00.

Very Truly Yours,



Dolores Mitchell
Executive Director